

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:07cv500-RJC**

MARK WORSLEY,

Plaintiff,

v.

**AETNA LIFE INSURANCE
COMPANY; DUKE ENERGY
CAROLINAS, LLC; DUKE ENERGY
CORPORATION; DUKE ENERGY
LONG-TERM DISABILITY
INSURANCE PLAN; DUKE ENERGY
CORPORATION BENEFITS
COMMITTEE; and DUKE ENERGY
CORPORATION CLAIMS
COMMITTEE,**

Defendants.

ORDER

THIS MATTER is before the Court on the motion for summary judgement of defendants Duke Energy Corporation; Duke Energy Carolinas, LLC; Duke Energy Corporation Long-Term Disability Insurance Plan; Duke Energy Corporation Benefits Committee; and Duke Energy Corporation Claims Committee (the “Duke Defendants”) (Doc. No. 38).

Worsley does not oppose this motion other than as to Duke Energy Corporation Long-Term Disability Insurance Plan (the “LTD Plan”). See (Doc. No. 45 at 3) (“Based on the foregoing, the Court should deny the Duke Defendants’ March 12, 2010 motion for summary judgment as to Defendant Duke Energy Long-Term Disability Insurance Plan.”). Because Worsley does not oppose the motion for summary judgment as to the Duke Defendants other than the LTD Plan, the Court will dismiss the claims against these Duke Defendants.

In light of this development, the Duke Defendants have now withdrawn their motion as to

the LTD plan and “concede the general point that an ERISA plan may be a proper party in an ERISA action challenging a benefit determination.” (Doc. No. 48 at 1 n.1). The LTD Plan has now joined the motion for summary judgment filed by Aetna Life Insurance Company (Doc. Nos. 43 (motion) & 44 (supporting brief)).

IT IS, THEREFORE, ORDERED that the Duke Defendants’ motion for summary judgment is **GRANTED** as to Duke Energy Corporation; Duke Energy Carolinas, LLC; Duke Energy Corporation Benefits Committee; and Duke Energy Corporation Claims Committee. The Duke Defendants’ motion for summary judgment is **DENIED** as to the LTD Plan upon the withdrawal the motion as to this defendant, and the LTD Plan is granted leave to join Aetna Life Insurance Company’s motion for summary judgment.

SO ORDERED.

Signed: August 5, 2010

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

